

## United States Patent and Trademark Office



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.usplo.gov

APPLICATION NO. FILING DATE		G DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/618,298	10/618,298 07/11/2003		Michael J. Yellin	C014CIPDIV1/2CON	6908	
1473	7590	07/07/2006		EXAMINER		
FISH & NE	EAVE IP GR	OUP	GAMBEL	GAMBEL, PHILLIP		
ROPES & G		AMERICAS FL (	ART UNIT	PAPER NUMBER		
	K, NY 1002		1644			
				DATE MAILED: 07/07/200	6	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 30° FR11360, in no event, however, may a raply be timely filled.  If NO period for reply is specified above, the maintening replicated will apply and will acquis SIX (8) MONTHS from the maintening date of this communication.  Failurs to reply which the set or orended period for reply is specified above, the maintening replicated will apply and will acquis SIX (8) MONTHS from the maintening date of this communication.  Failurs to reply which the set or orended period for reply is predicted above, the maintening date of this communication, even if timely filled, may reduce any servinely period that the maintening date of this communication, even if timely filled, may reduce any servinely period to the maintening date of this communication, even if timely filled, may reduce any servinely period to the maintening date of this communication, even if timely filled, may reduce any servinely replication is filled.  2big This action is FINAL.  2big This action is FINAL.  2big This action is filled.  2big This action is filled.  2big This action is filled in the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-101 is large pending in the application.  4) Claim(s) 1-101 is large pending in the application.  4) Claim(s) 1-101 is are subjected to be application of the above claim(s) 1-101 is safer enjected.  5) Claim(s) 1-101 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filled on 1-15/47 is accepted or the profit of the drawing(s) be held in abeyance. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner.  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All by Acknowledgment is made of			Application N	0.	Applicant(s)	
Prillip Gambel   1644    - The MAILING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply    A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM 15 THE MAILING DATE OF THIS COMMUNICATION.  If No period for reply is pecified above, the maintenance of 30 TCR 1.7040, in owe will, however, and supply the first with the provision of 30 TCR 1.7040, in owe will penyl and will expire SIX (8) MONTHS from the mailing date of this communication, while the mailing date of this communication is communication.  Application of Claims  4) Claim (a) I state allowed.  Claim (b) I state allowed.  Claim (c) I state pending in the application.  4) Claim (c) I state allowed.  Claim (c) I state pending in the application.  4) Claim (c) I state allowed.  Claim (c) I state pending in the application.  4) Claim (c) I state allowed.  Claim (c) I stat	Office Action Summa	n,			YELLIN ET AL.	
The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Estember of tom many be evaluate under the provision of 37 GFt 1.730(c). In no event, however, may a nept be timely filled.  If NO period for nept is specified above, the mailtenum stability period will apply and will expire SIX (6) MONTHS from the mailing date of this communication, even if smally filled. In a specified above, the mailtand stability period will apply and will expire SIX (6) MONTHS from the mailing date of this communication, even if smally filled, may reduce any example part to the mailtand period for the mailing date of this communication, even if smally filled, may reduce any example part to term adjustment. See 37 GFR 1.704(f) in station is non-final.  3) ■ Responsive to communication(s) filled on	Office Action Summa	ry	Examiner	1.	Art Unit	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Berelina from may be sensitive under the protection of 3 CFR 1.75(0). In so word, Inversor, may is toply be timely filled in the protection of this communication.  If No protect on may be specified with the protection of 3 CFR 1.75(0). In so word, Inversor, may is toply be timely filled on the maining date of this communication.  If No protect on may be specified with the protection of the prot					1	
WHICHEVER IS ONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extension of time image to available under the provision of 37 CPR 1.136(a). In no event, however, may a reply be timely filed.  B NO period for reply is specified above, the maintain statutory period will apply and will eaply eaply the provision of the communication.  Pay reply received by the office before the mitter maintained and the maintained and the earlier of the communication, even if firmly filed, may reduce any search patients and earlier than eaply earlier than earlier	The MAILING DATE of this cor Period for Reply	mmunication app	ears on the cov	er sheet with the c	correspondence ad	ddress
1) Responsive to communication(s) filed on	<ul> <li>WHICHEVER IS LONGER, FROM T</li> <li>Extensions of time may be available under the properties of the state of the stat</li></ul>	HE MAILING DA  ovisions of 37 CFR 1.13  is communication.  mum statutory period wi  or reply will, by statute,  nonths after the mailing	ATE OF THIS ( 6(a). In no event, he ill apply and will expi cause the application	COMMUNICATION  Never, may a reply be ting  re SIX (6) MONTHS from  n to become ARANDONE	N.  nely filed  the mailing date of this of the control of the con	
This action is FINAL.   2b)   This action is non-final.	Status					
This action is FINAL.   2b)   This action is non-final.	1) Responsive to communication	(s) filed on	_•			
3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-101 is/are pending in the application. 4a) Of the above claim(s) is/are ellowed. 5)  Claim(s) is/are allowed. 6)  Claim(s) is/are objected. 7)  Claim(s) is/are objected to. 8)  Claim(s) 1-101 are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner. 100  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.				nal.		
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-101 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are rejected.  7)  Claim(s) is/are objected to. 8)  Claim(s) 1-101 are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All   b)  Some * c)  None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	3) Since this application is in cond				secution as to the	e merits is
4)  Claim(s) 1-101 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are allowed.  7)  Claim(s) is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) is/are objected to.  Application Papers  9)  The specification is objected to by the Examiner.  10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b) Some * c) None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Application Papers**  4) Interview Summary (PTO-413) Paper No(s)/Mail Date Paper No(s)/Mail Da						
4a) Of the above claim(s) is/are withdrawn from consideration.  5)	Disposition of Claims					
4a) Of the above claim(s) is/are withdrawn from consideration.  5)	4)⊠ Claim(s) 1-101 is/are pending i	n the application				
Solidam(s)	_	• •		eration.		
6						
7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.    Interview Summary (PTO-413) Paper No(s)/Mail Date	· · · · · · · · · · · · · · · · · · ·					
Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **See the attached Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  **See Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date  **Patent and Trademark Office	<u> </u>	to.				
9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of Prafisperson's Patent Drawing Review (PTO-948)   Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   Paper No(s)/Mail Date  Patent and Trademark Office  **Patent and Trademark Office**			election require	ement.		
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)	Application Papers		·			
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)	9) The specification is objected to	hy the Examiner				
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some colonical None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **See the attached detailed Office action for a list of the certified copies not received.  **Interview Summary (PTO-413) Paper No(s)/Mail Date    Other:	_	-		niected to by the F	Evaminer	
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some col None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.    Interview Summary (PTO-413) Paper No(s)/Mail Date.					• • •	ED 4 404/4\
Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.    Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.    Interview Summary (PTO-413)						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some col None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)		•				0 102.
a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **  **  **  **  **  **  **  **  **		laim for foreign r	riority under 2	E11.0.0.0.440(a)	(4) (5)	
1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **  **  **  **  **  **  **  **  **			ononly under 3	5 U.S.C. § 119(a)	-(a) or (t).	
2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **  **  **  **  **  **  **  **  **			have been rec	eived		
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)					on No	
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  **  **  **  **  **  **  **  **  **						Class
* See the attached detailed Office action for a list of the certified copies not received.  **Attachment(s)    Notice of References Cited (PTO-892)					u III IIIIS IValionai	Stage
Attachment(s)    Notice of References Cited (PTO-892)			•	. ,,	4	
Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  Patent and Trademark Office  A) Interview Summary (PTO-413)  Paper No(s)/Mail Date  So Other:					<b>.</b>	
Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  Patent and Trademark Office  A) Interview Summary (PTO-413)  Paper No(s)/Mail Date  So Other:						
Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  Patent and Trademark Office  A) Interview Summary (PTO-413)  Paper No(s)/Mail Date  So Other:	Attachment(s)					
Notice of Draftsperson's Patent Drawing Review (PTO-948)   Paper No(s)/Mail Date   Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   Statement(s) (PTO-152)   Other:   Paper No(s)/Mail Date			4) [	Interview Summary (	PTO-413)	
Paper No(s)/Mail Date 6) Other:  Patent and Trademark Office	<ol><li>Notice of Draftsperson's Patent Drawing Revi</li></ol>	ew (PTO-948)	, <u> </u>	Paper No(s)/Mail Dai	te	
Patent and Trademark Office	Information Disclosure Statement(s) (PTO-14     Paper No(s)/Mail Data	49 or PTO/SB/08)		•	tent Application (PTO	-152)
				Other:		
•	TOL-326 (Rev. 7-05)	Office Acti	on Summary	Par	t of Paper No./Mail Da	ite 06262006

Application/Control Number: 10/618,298 Page 2

Art Unit: 1644

## **DETAILED ACTION**

1. This application contains claims directed to the following patentably distinct species of the claimed invention: wherein the agent is selected from:

- A) antibody (claims 1-13, 21-23, 25-29, 38-56, 65-69, 75, 78-97, 98-101),
- B) CD40 ligand (1-5, 14-14,25, 26, 30, 38-40, 57, 58, 65, 66, 70, 78-97, 98-101),
- C) CD40 (1-5, 14-20, 25,26, 57-63, 65, 66, 78-97, 98-101),
- D) nonprotein (1, 31, 37, 38, 71, 77-97, 98-101),
- E) library of known agents (1, 32-, 76, 78-97, 98-101)
- F) modified from a known agent (1, 33-37, 73, 74, 78-97, 98-101) or
- G) small molecule (1, 24, 64, 78-97, 98-101).

These species are distinct because the various structures, modes of action and the manner in which they are produced are different. It is further noted that these agents do not comprise a common structure essential to a common utility. Therefore, they are patentably distinct.

It is noted that there is an ambiguity in the recitation of "library of known agents", modified from a known agent" and "small molecule". If applicant intends that these "phrases" would be applicable to a known CD40-ligand specific antibody (e.g. library, small molecule) or a form of said antibody such as a humanized antibody or a Fv fragment (e.g. modified from a known agent, small molecule); then (E)(F)(G) would be read as reading on (A)(B)(C) as appropriate. However, if applicant intends that (E)(F)(G) read on agents other than (A)(B)(C), then the restriction as set forth above would be considered appropriate.

Applicant is invited to clarify the metes and bounds of "library of known agents", modified from a known agent" and "small molecule" in the interest of compact prosecution.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Application/Control Number: 10/618,298

Art Unit: 1644

2. In addition to choosing a species from the agents indicated in (1) above, applicant is required to elect from the following species election.

This application contains claims directed to the following patentably distinct species of the claimed invention: wherein the targeted inhibition via CD40 ligand is selected from:

- A) arthritis,
- B) scleroderma,
- C) fibrosis,
- D) atherosclerosis,
- E) reperfusion injury,
- F) allograft rejection, organ rejection,
- G) multiple sclerosis,
- H) vasculitis,
- I) psoriasis, or
- J) myeloma.

These species are distinct because the pathological conditions differ in etiologies and therapeutic endpoints.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

3. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Art Unit: 1644

- 4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
- 5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (571) 272-0844. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841.

The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phillip Gambel, Ph.D., J.D.

DHUG GANBEL

**Primary Examiner** 

**Technology Center 1600** 

June 26, 2006